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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/723,451	11/26/2003	Horst Bocker	NHL-HOL-63	5964
7590 03/23/2006			EXAMINER	
NILS H. LJUNGMAN NILS H. LJUNGMAN & ASSOCIATES P.O. BOX 130 GREENSBURG, PA 15601-0130			PARADISO, JOHN ROGER	
			ART UNIT	PAPER NUMBER
			3721	

DATE MAILED: 03/23/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/723,451

Applicant(s)

BOCKER ET AL.

Examiner

John R. Paradiso

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 December 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 12-31 is/are pending in the application.
- 4a) Of the above claim(s) 21-31 is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) _____ is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☒ None of:
1. ☒ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date <u>12/29/05</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Election/Restrictions

1. Newly submitted claims 21-31 are directed to an invention that is independent or distinct from the invention originally claimed for the following reasons: along with the claims grouped as Invention I in the Restriction Requirement mailed 4/7/2005, newly submitted claims 21-31 have separate utility such as for diverting streams of bottles to other destinations, streams of narrower or larger proportion to the others.. See MPEP § 806.05(d).

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution on the merits. Accordingly, claims 21-31 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Information Disclosure Statement

2. The information disclosure statement filed 12/29/2005 fails to comply with 37 CFR 1.98(a)(2), which requires a legible copy of each cited foreign patent document; each non-patent literature publication or that portion which caused it to be listed; and all other information or that portion which caused it to be listed. It has been placed in the application file, but the information referred to therein has not been considered.

Response to Amendments

3. In view of the amendments filed 12/29/2005, the objections to the claims and the rejections to the claims under 35 U.S.C. § 112 are hereby withdrawn.

Claim Rejections

4. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.

5. Claims 12-14 and 20 are rejected under 35 U.S.C. 102(b) as being anticipated by VAMVAKAS, as set forth in paragraph 5 of the previous Office Action.

6. Claims 13-19 are rejected under 35 U.S.C. 103(a) as being unpatentable over VAMVAKAS, as set forth in paragraph 7 of the previous Office Action.

Response to Arguments

7. Applicant's arguments filed 12/29/2005 have been fully considered but they are not persuasive.

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8. Applicant states on page 22 of his Response that “Vamvakas does not teach or suggest that the first and second conveyor structures are configured and disposed in a physical relation with respect to one another in order to separate containers. According to Vamvakas, the differing speeds of the conveyor structures primarily cause the separation of the containers, not their physical relationship with respect to one another.”

However, it can be clearly seen in VAMVAKAS ET AL, Figure 3, that the guide tip (36) separates the container stream and a triangular guide separates them further.

9. Applicant states on page 23 of his Response that “Vamvakas shows an emerging center rail and a divider plow (36), in addition to the two conveyors running at different speeds, in order to separate the containers. Vamvakas does not show that the two conveyors diverge from one another at an angle at a point of divergence in order to separate containers.”

However, while the first and second conveyors of VAMVAKAS ET AL do travel for a time in parallel, they are physically separate from each other and have different endpoints; they are therefore being read as diverging.

While Applicant states that “Vamvakas does not show that the two conveyors diverge from one another at an angle at a point of divergence in order to separate containers”, claim 13 lines 15-18 actually recite “said guide structure is disposed to ... permit separation of the first stream of containers ... and into the second stream of containers.” In VAMVAKAS ET AL, Figure 3, it can be seen clearly that the triangular guide downstream of guide rail (36) permits just such a separation.

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10. Applicant states on page 24 of his Response that "Vamvakas does not teach or suggest that the two conveyors are disposed to diverge at an angle from one another after divergence, in order to separate containers."

However, as explained above, while the first and second conveyors of VAMVAKAS ET AL do travel for a time in parallel, they are physically separate from each other and have different endpoints; they are therefore being read as diverging.

Conclusion

11. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

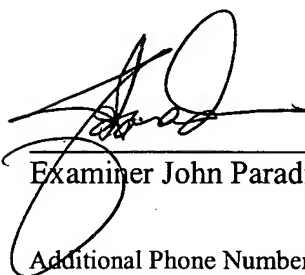
A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

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12. Any inquiry concerning this communication or earlier communications from the examiner should be directed to John Paradiso. The examiner can normally be reached Monday-Friday, 9:30 p.m. – 6:00 p.m. (ET).

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rinaldi Rada, can be reached at the number listed below.

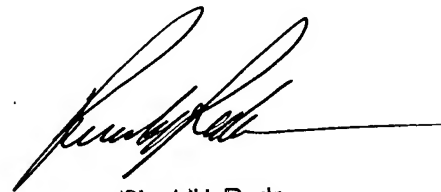
Any inquiry of a general nature or relating to the status of this application should be directed to the 3700 Technology Center Receptionist.



Examiner John Paradiso: (703) 308-2825

Additional Phone Numbers:

Supervisor Rinaldi Rada: (703) 308-2187
Fax (directly to Examiner) (703) 746-3253
Fax (Official): (571) 273-8300



Rinaldi I. Rada
Supervisory Patent Examiner
Group 3700

March 16, 2006